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Sean P. O'Hanlon Bingham McCutchen 3000 K Street, N.W. Suite 300 Washington, DC 20007			EXAMINER ANDERSON, DENISE R	
			ART UNIT 1797	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/578,437

Applicant(s)

CLAYSON, ANDREW

Examiner

Denise R. Anderson

Art Unit

1797

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 November 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 4, 6-8, 10-44, 46 and 48-53 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 4, 6-8, 10-44, 46 and 48-53 is/are rejected.
- 7) ☒ Claim(s) 4, 46 and 48-51 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 May 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Final Drawing Review (PTO-84P)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Objections

2. Claims 6 and 46 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claims 4 and 46 are shown below. Claim 46 fails to further limit claim 4.

Claim 4. A cooking oil and/or fat filter apparatus, the apparatus comprising:

a filter means; and

*a cup for receiving matter from a liquid being filtered, in use, and wherein
the filter means and the cup are formed by a single cup and filter body,
and the cup comprises at least one annular cup means.*

*Claim 6. A filter apparatus as claimed in claim 4, wherein the filter means and
cup are integrally formed in a single filter body.*

*Claim 46. A cup and filter body for use in a cooking oil and/or cooking fat filter
apparatus according to claim 4.*

Claim 6 recites no further structural limitations on the claimed apparatus. Claim 46 recites a use for the apparatus recited in claim 4 but imposes no further structural limitations.

3. Claims 48-51 are also objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim.

Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Various uses are recited where the claim 4 filter apparatus is a frying machine-type [claim 51] cooking apparatus [claim 48] on a food retail premises [claim 49] or on a commercial food preparation premises [claim 50]. These claims recite no further structural limitations on the filter apparatus of claim 4.

Claim Rejections - 35 USC § 112

4. Claims 4, 6-8, 10-44, 46, and 48-53 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. According to the MPEP 2173, "The primary purpose of this requirement of definiteness of claim language is to ensure that the scope of the claims is clear so the public is informed of the boundaries of what constitutes infringement of the patent." The MPEP further states "If the language of the claim is such that a person of ordinary skill in the art could not interpret the metes and bounds of the claim so as to understand how to avoid infringement, a rejection of the claim under 35 U.S.C. 112, second paragraph, would be appropriate. See *Morton Int 'l, Inc. v. Cardinal Chem. Co.*, 5 F.3d 1464, 1470, 28 USPQ2d 1190, 1195 (Fed. Cir. 1993)."

5. Here, claim 4 recites:

Claim 4 (currently amended) A cooking oil and/or fat filter apparatus, the apparatus comprising:

a filter means; and

a cup for receiving matter from a liquid being filtered, in use, and wherein the filter means and the cup are formed by a single cup and filter body, and the cup comprises at least one annular cup means.

With the new limitation, one of ordinary skill in the art would be unable to discern if a given filter apparatus was infringing. The examiner will interpret the new limitation to mean that there is a cup (Applicant's Figure 3, cup 130) and a filter (Applicant's Figure 3, filter 100). When the filter is placed in the cup, the combination is a filter body (Applicant's Figure 3, filter body 135). The cup is an annular-shaped cup (Applicant's Figure 3, cup 130 is annular-shaped).

6. Claims 23, 25, 30, 31, and 33-35 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 23, 25, 30, 31, and 33-35 all depend, either directly or indirectly, on cancelled claim 5. The examiner will assume the claims all depend, either directly or indirectly, on cancelled claim 4.

Claim Rejections - 35 USC § 103 – Summary

7. Claims 4, 6-8, 10-12, 14-18, 20-44, 46, 48-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ookouchi (JP 10295565, Nov. 10, 1998 – The original document with the figures, the Abstract in English, and a machine translation),

in view of Bitzer et al. (US 4,565,631, Jan. 21, 1986) for the inline filter. The inventor's name is Masahiro Ookouchi and the examiner previously made the error of referring to the inventor's first name, instead of the last. The Masahiro reference in the last office action is the Ookouchi reference in this office action.

8. Claims 4, 6-8, 10-12, 14-18, 20-44, 46, 48-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yokose (JP 8187191, Jul. 23, 1996 – The original document with the figures, the Abstract in English, and a machine translation), in view of Bitzer et al. (US 4,565,631, Jan. 21, 1986) for the inline filter. The inventor's name is Naoto Yokose and the examiner previously made the error of referring to the inventor's first name, instead of the last. The Naoto reference in the last office action is the Yokose reference in this office action.

9. Claims 13 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ookouchi (JP 10295565, Nov. 10, 1998 – The original document with the figures, the Abstract in English, and a machine translation), in view of Bitzer et al. (US 4,565,631, Jan. 21, 1986) for the inline filter, as applied to claim 4 above, -- and further in view of Kyle (US 4,604,203, Aug 5, 1986) for the polyester filter.

10. Claims 13 and 19 are also rejected under 35 U.S.C. 103(a) as being unpatentable over Yokose (JP 8187191, Jul. 23, 1996 – The original document with the figures, the Abstract in English, and a machine translation), in view of Bitzer et al. (US 4,565,631, Jan. 21, 1986) for the inline filter, as applied to claim 4 above, -- and further in view of Kyle (US 4,604,203, Aug 5, 1986) for the polyester filter.

Claim Rejections - 35 USC § 103
Ookouchi, in view of Bitzer et al. – Independent Claim 4 and
Dependent Claims 6-8, 12, 15-16, 20, 22, 36-41, 44, 46, and 48-53

11. Claims 4, 6-8, 12, 15-16, 36-41, 44, 46, and 48-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ookouchi (JP 10295565, Nov. 10, 1998 – The original document with the figures, the Abstract in English, and a machine translation), in view of Bitzer et al. (US 4,565,631, Jan. 21, 1986) for the inline filter.

12. The patentability analysis will begin with independent claim 4. As was stated above in the 112 rejection of claim 4, the new limitation "and wherein the filter means and the cup are formed by a single cup and filter body, and the cup comprises at least one annular cup means" will be interpreted to mean there is a cup (Applicant's Figure 3, cup130) and a filter (Applicant's Figure 3, filter 100). When the filter is placed in the cup, the combination is a filter body (Applicant's Figure 3, filter body 135). The cup is an annular-shaped cup (Applicant's Figure 3, cup 130 is annular-shaped).

13. In the Abstract and Figure 1, Ookouchi discloses a filter apparatus (oil filtering device 1) with a filter (filter 5) and a cup (filter holding part 3) where the filter is inserted in the cup to form a filter body. Applicant's filter is an inline filter.

14. Ookouchi discloses the claimed invention except that the inline filter is a cylindrical shape and not the recited annular shape. Bitzer et al. teaches that it is known in the inline filter art to make the inline filter annular shaped when Bitzer discloses inline filter forms in Figures 6 and 8 and further teaches that inline filter forms can take the shape of "baskets with rims" and "jackets that could be either cylindrical or frustoconical" and that "several such baskets may be coaxially nested and centered on

the conduit axis." Bitzer et al., Column 2, lines 49-62; Figures 1-19 showing several embodiments. Bitzer further teaches that only the basket bottoms need be perforated, but if the sides (jackets) are also perforated, this "increases the effective sieve surface and reduces the flow resistance of the filter." Bitzer et al., Column 7, lines 63-67. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have substituted the cylindrical inline filter in the Ookouchi filter apparatus for an annular shape as taught by Bitzer et al., since Bitzer et al. states at Column 7, lines 63-67 that such a modification would increase the effective filter surface and reduce the filter's flow resistance.

15. In summary, Ookouchi, in view of Bitzer et al., discloses or suggests all claim 4 limitations.

16. Dependent claims 6-8, 12, 15-16, 20, 22, 36-41, 44, 46, and 48-53 recite further limitations on the filter apparatus that Ookouchi discloses.

17. In the Abstract and Figure 1, Ookouchi discloses a filter apparatus (oil filtering device 1) with a filter (filter 5) and a cup (filter holding part 3) [claims 4 and 46] where the filter is inserted in the cup to form a filter body [claims 4 and 6]. In Figure 1, Ookouchi further discloses the filter (filter 5) is a sheet [claim 7] of paper [claim 12] and it is inherent that a filter has filtering properties [claim 8]. Ookouchi, Translation of Detailed Description, ¶ 2, line 7-9.

18. Regarding claims 15 and 16, Ookouchi, in Figure 1, discloses that the cup (filter holding part 3) serves as a filter support [claim 15] that is rigid and closely fits the filter [claim 16].

19. Regarding claims 20 and 22, Ookouchi, in Figure 9, discloses an inlet (pouring oil M into filter 5) in to the filter apparatus and an outlet (oil pouring part 6) from the filter apparatus [claim 20] where the inlet is above the filter and the outlet is above the filter [claim 22].

20. Regarding claims 36-38, Ookouchi discloses, in Figure 6, that the filter support (filter holding part 3) has an outlet [claim 36], in the form of a plurality of apertures (breakthroughs 3e) [claim 37], and that the filter support also has a plurality of channels (slots 3g) [claim 38].

21. Regarding claims 39-41, Ookouchi discloses, in Figure 1, that the filter (filter 5) is removable [claim 39] and that the filter support (filter holding part 3) is removable [claim 40] via a quick release coupling [claim 41] in that the filter support is dropped into place and removed similarly.

22. Regarding claims 44, 52, and 53, in the Abstract and Figure 1, Ookouchi discloses a filter apparatus (oil filtering device 1) with a filter (filter 5) and a filter support (filter holding part 3). There is no seal between the filter and the filter support [claim 44] – which is applicant's "seal through viscous tension" of the liquid being filtered [claim 52]. Also, the filter and the filter support are flared [claim 53].

23. Regarding claims 48-51, these claims depend on claim 4. Various uses are recited where the filter apparatus is a frying machine-type [claim 51] cooking apparatus [claim 48] on a food retail premises [claim 49] or on a commercial food preparation premises [claim 50]. Since these claims recite no further structural limitations on the

filter apparatus of claim 4, these claims are also disclosed by Ookouchi, in view of Bitzer et al..

24. In summary, Ookouchi, in view of Bitzer et al., discloses or suggests all limitations recited in claims 6-8, 12, 15-16, 20, 22 and 36-41, 44, 46, and 48-53.

Claim Rejections - 35 USC § 103

***Yokose, in view of Bitzer et al. – Independent Claim 4 and
Dependent Claims 6-8, 12, 15-16, 20, 22, 36-41, 44, 46, and 48-53***

25. Claims 4, 6-8, 12, 15-16, 20, 22, 36-41, 44, 46, and 48-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yokose (JP 8187191, Jul. 23, 1996 – The original document with the figures, the Abstract in English, and a machine translation), in view of Bitzer et al. (US 4,565,631, Jan. 21, 1986) for the inline filter.

26. In the Abstract and Figure 1, Yokose discloses a filter apparatus (oil strainer for cooking) with a filter (filter paper 7) and a cup (strainer 1 and frame 2) where the filter is inserted in the cup to form a filter body. Applicant's filter is an inline filter.

27. Yokose discloses the claimed invention except that the inline filter is a cylindrical shape and not the recited annular shape. Bitzer et al. teaches that it is known in the inline filter art to make the inline filter annular shaped when Bitzer discloses inline filter forms in Figures 6 and 8 and further teaches that inline filter forms can take the shape of "baskets with rims" and "jackets that could be either cylindrical or frustoconical" and that "several such baskets may be coaxially nested and centered on the conduit axis." Bitzer et al., Column 2, lines 49-62; Figures 1-19 showing several embodiments. Bitzer further teaches that only the basket bottoms need be perforated, but if the sides

(jackets) are also perforated, this "increases the effective sieve surface and reduces the flow resistance of the filter." Bitzer et al., Column 7, lines 63-67. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have substituted the cylindrical inline filter in the Yokose filter apparatus for an annular shape as taught by Bitzer et al., since Bitzer et al. states at Column 7, lines 63-67 that such a modification would increase the effective filter surface and reduce the filter's flow resistance.

28. In summary, Yokose, in view of Bitzer et al., discloses or suggests all claim 4 limitations.

29. Dependent claims 6-8, 12, 15-16, 36-37, 39-41, 44, 46, and 48-53 recite further limitations on the filter apparatus that Yokose discloses.

30. In the Abstract and Figure 1, Yokose discloses a filter apparatus (oil strainer for cooking) with a filter (filter paper 7) and a cup (strainer 1 and frame 2) [claims 4 and 46] where the filter is inserted in the cup to form a filter body [claims 4 and 6]. In Figure 1, Yokose further discloses the filter (filter paper 7) is a sheet [claim 7] of paper [claim 12] and it is inherent that a filter has filtering properties [claim 8].

31. Regarding claims 15 and 16, Yokose, in Figure 1, discloses that the cup (strainer 1 and frame 2) serves as a filter support [claim 15] that is rigid and closely fits the filter [claim 16].

32. Regarding claims 36 and 37, Yokose discloses, in Figures 1-2, that the filter support (strainer 1 and frame 2) has an outlet [claim 36], in the form of a plurality of apertures (Figure 2 strainer holes) [claim 37].

33. Regarding claims 39-41, Yokose discloses, in the Abstract and Figure 1, that the filter (filter paper 7) is removable [claim 39] and that the filter support (strainer 1 and cup 2) is removable [claim 40] via a quick release coupling [claim 41] in that the filter support is slid in and out of place.

34. Regarding claims 44, 52, and 53, in the Abstract and Figure 1, Yokose discloses a filter apparatus (oil strainer for cooking) with a filter (filter paper 7) and a filter support (strainer 1 and frame 2). There is no seal between the filter and the filter support [claim 44] – which is applicant's "seal through viscous tension" of the liquid being filtered [claim 52] – since the Abstract discloses, "that a coffee filter paper 7 is put on a strainer 1, the strainer 1 is fitted in a frame 2 attached to the top plate of a stand 3, an oil receiving container 8 is placed just under the strainer 1 inside the legs 4 of stand 3, and oil is flowed in the coffee filter paper 7 to be received by the oil receiving container 8." Also, the filter and the filter support are flared [claim 53].

35. Regarding claims 48-51, these claims depend on claim 4. Various uses are recited where the filter apparatus is a frying machine-type [claim 51] cooking apparatus [claim 48] on a food retail premises [claim 49] or on a commercial food preparation premises [claim 50]. Since these claims recite no further structural limitations on the filter apparatus of claim 4, these claims are also disclosed by Yokose, in view of Bitzer et al..

36. In summary, Yokose, in view of Bitzer et al., discloses or suggests all limitations recited in claims 4, 6-8, 12, 15-16, 36-37, 39-41, 44, 46, and 48-53.

Claim Rejections - 35 USC § 103
Ookouchi (or Yokose), in view of Bitzer et al.
Dependent Claims 10, 11, 14, 17, 18, 20-35, and 42-43

37. Claims 10, 11, 14, 17, 18, 20-35, and 42-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ookouchi (JP 10295565, Nov. 10, 1998 – The original document with the figures, the Abstract in English, and a machine translation), in view of Bitzer et al. (US 4,565,631, Jan. 21, 1986) for the inline filter.

38. Claims 10, 11, 14, 17, 18, 20-35, and 42-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yokose (JP 8187191, Jul. 23, 1996 – The original document with the figures, the Abstract in English, and a machine translation), in view of Bitzer et al. (US 4,565,631, Jan. 21, 1986) for the inline filter.

39. Ookouchi (or Yokose) discloses the claimed invention except for the inline filter and support being various shapes recited in claims 10, 11, 14, 17, 18, and 23-34. These shapes are known in the inline filter art. Bitzer et al. (US 4,565,631, Jan. 21, 1986) discloses all the claimed inline filter forms in Figures 1-19 in the shape of "baskets" with "jackets that could be either cylindrical or frustoconical" and that "several such baskets may be coaxially nested and centered on the conduit axis." Bitzer et al., Column 2, lines 49-62. Bitzer further teaches that only the basket bottoms need be perforated, but if the sides (jackets) are also perforated, this "increases the effective sieve surface and reduces the flow resistance of the filter." Bitzer et al., Column 7, lines 63-67. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have included the inline filter forms in the Ookouchi (or Yokose) filter apparatus as taught by Bitzer et al., since Bitzer et al. states at Column 7, lines 63-

67 that such a modification would increase the effective filter surface and reduce the filter's flow resistance.

40. Regarding claims 20-22, Ookouchi (or Yokose) discloses an inlet and an outlet [claim 20] above the filter [claim 22]. Ookouchi (or Yokose) does not disclose an inlet above the filter and an outlet below the filter [claim 21]. It would have been obvious to one of ordinary skill in the art that placing the outlet below the filter in the Ookouchi (or Yokose) filter apparatus would have been an obvious solution to try, given that there are a finite number of identified, predictable solutions (the outlet is above the filter or the outlet is below the filter).

41. Regarding claim 35, Ookouchi (or Yokose) discloses the claimed invention except for the inline filter and support being on its side rather than top to bottom as it is in the gravity-fed filter apparatus of Ookouchi (or Yokose). Bitzer et al. teaches that the inline filter and support can be on its side since the Bitzer et al. in line filters can be "for a conduit system" and, thus, can be pressure-fed, as opposed to gravity-fed. Bitzer et al., Column 1, lines 12-13. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have placed the Ookouchi (or Yokose) filter on its side since it was known in the art that a filter can be on its side in a conduit system, as taught by Bitzer et al. at Column 1, lines 12-13.

42. Regarding claims 42 and 43, Ookouchi (or Yokose) discloses the claimed invention except for the inlet being a quick-release rotary coupling and the outlet being a quick-release rotary coupling. Bitzer et al. teaches inline filters "for a conduit system serving for the circulation of liquid" and further teaches valves and pipes to connect the

filter apparatus into the conduit of the recirculation system. Bitzer et al., Column 1, lines 11-14; Figures 1, 3, 6-8, and 12-19. It would have been obvious to one of ordinary skill in the art to have connected the Ookouchi (or Yokose) filter apparatus into a recirculation conduit, with pipes and valves, as taught by Bitzer et al., in order to filter the cooking oil before returning it to use with less exposure of personnel to hot oil.

43. Furthermore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have, in the Ookouchi (or Yokose) filter apparatus in a recirculation conduit, substituted the valves, taught by Bitzer et al., with quick release rotary couplings at the inlet and outlet in order to quickly pull the filter apparatus out of service for maintenance or repair. To recap, Ookouchi (or Yokose), in view of Bitzer, discloses or suggests all limitations recited in claims 42-43.

44. In summary, Ookouchi (or Yokose), in view of Bitzer et al., discloses or suggests all limitations recited in claims 10, 11, 14, 17, 18, 20-35, and 42-43.

Claim Rejections - 35 USC § 103
Ookouchi (or Yokose), in view of Bitzer et al., in view of Kyle
Dependent Claims 13 and 19

45. Claims 13 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ookouchi (JP 10295565, Nov. 10, 1998 – The original document with the figures, the Abstract in English, and a machine translation), in view of Bitzer et al. (US 4,565,631, Jan. 21, 1986) for the inline filter, as applied to claim 4 above, -- and further in view of Kyle (US 4,604,203, Aug 5, 1986) for the polyester filter.

46. Claims 13 and 19 are also rejected under 35 U.S.C. 103(a) as being unpatentable over Yokose (JP 8187191, Jul. 23, 1996 – The original document with the figures, the Abstract in English, and a machine translation), in view of Bitzer et al. (US 4,565,631, Jan. 21, 1986) for the inline filter, as applied to claim 4 above, -- and further in view of Kyle (US 4,604,203, Aug 5, 1986) for the polyester filter.

47. Ookouchi (or Yokose) discloses the claimed invention except for the polyester filter. Kyle teaches that it is known to make "the support layer web and the filter layer web" of a "cooking oil filtering apparatus" from "polyethylene terephthalate" which is applicant's recited polyester filter means in a filter apparatus. Kyle, Column 3, lines 25-33. In this same passage, Kyle further teaches that a polyester filter would be "unaffected by hot cooking oil" and would be FDA approved for direct contact with food. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have made the Ookouchi (or Yokose) filter apparatus with a polyester filtering means as taught by Kyle, since Kyle states at Column 3, lines 25-33, that such a modification would make the filter means "unaffected by hot cooking oil" and would be FDA approved for direct contact with food.

48. In summary, Ookouchi (or Yokose), in view of Bitzer et al., in view of Kyle, discloses or suggests all limitations recited in claims 13 and 19.

Response to Arguments

49. Applicant's arguments filed November 21, 2009 have been fully considered but they are not persuasive.

50. Applicant's arguments are listed below, with the examiner's response after each argument.

- a. Applicant argues, "[N]either Masahiro or Naoto, whether taken alone or in combination with Bitzer, teach, hint, or suggest the inventive cooking oil and or fat filter apparatus according to claim 4," because, "[C]laim 4 has been amended to include . . . that the cup comprises at least one annular cup means." Applicant's Remarks, p. 10, lines 19-21 and 18-19.

As in the above patentability analysis, the examiner responds that Ookouchi (or Yokose) discloses the claimed invention except that the inline filter is a cylindrical shape and not the recited annular shape. Bitzer et al. teaches that it is known in the inline filter art to make the inline filter annular shaped when Bitzer discloses inline filter forms in Figures 6 and 8 and further teaches that inline filter forms can take the shape of "baskets with rims" and "jackets that could be either cylindrical or frustoconical" and that "several such baskets may be coaxially nested and centered on the conduit axis." Bitzer et al., Column 2, lines 49-62; Figures 1-19 showing several embodiments. Bitzer further teaches that only the basket bottoms need be perforated, but if the sides (jackets) are also perforated, this "increases the effective sieve surface and reduces the flow resistance of the filter." Bitzer et al., Column 7, lines 63-67. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have substituted the cylindrical inline filter in the Ookouchi (or Yokose) filter apparatus for an annular shape as

taught by Bitzer et al., since Bitzer et al. states at Column 7, lines 63-67 that such a modification would increase the effective filter surface and reduce the filter's flow resistance.

In summary, Ookouchi (or Yokose, in view of Bitzer et al., discloses or suggests all claim 4 limitations

- b. Applicant argues, "[T]he examiner [has] embarked upon an unallowable hindsight analysis." Applicant's Remarks, p. 10, line 24.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

- c. Applicant argues, "Bitzer is not analogous to" Ookouchi/Yokose. Applicant's Remarks, p. 11, lines 5-6.

In response to applicant's argument that Bitzer et al. is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular

problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Bitzer et al. is in the field of applicant's endeavor of inline filters and is reasonably pertinent to the particular problem of removing solids from a liquid with which applicant is concerned.

Conclusion

51. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

52. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

53. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Denise R. Anderson whose telephone number is

(571)270-3166. The examiner can normally be reached on Monday through Thursday, from 8:00 am to 6:00 pm.

54. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Walter D. Griffin can be reached on 571-272-1447. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

55. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DRA

/Walter D. Griffin/
Supervisory Patent Examiner, Art Unit 1797